Remarks

No amendments to the claims or specification are made herein. A complete listing of claims is provided for the Examiner's convenience.

A Request for Continued Examination, a preliminary amendment, a request for an extension of time, and the required fees were submitted by Express Mail on October 21, 2003. Applicants submit that the preliminary amendment was fully responsive to the Office action dated April 28, 2003. This Response is submitted solely to provide an additional argument regarding the prior rejection of claims 11-13 and 16 under 35 U.S.C. § 103.

Claims 11-13 and 16 were previously rejected as allegedly being obvious over O'Hare et al. in view of Dilber et al., the present specification, and further in view of Dalton et al. Applicants respectfully disagree with this assertion.

O'Hare et al., Dilber et al., and Applicants' disclosure are discussed in the preliminary amendment submitted on October 27, 2003.

Dalton et al. discloses the enhancement of chemotherapy using verapamil to enhance chemotherapy. The patients received a combination of chemical compounds including vincristine and doxorubicin plus oral dexamethasone (termed VAD). Dalton et al. proposes that verapamil can be added to VAD to partially circumvent drug resistance. Specifically, Dalton et al. proposes that the drug resistance of P-gly (also known as multi-drug resistance or mdr, see Dalton at page 416) expressing myelomas can be overcome by adding verapamil to VAD.

As discussed in the response submitted on October 27, 2003, one of skill in the art, reading the work of O'Hare et al., on VP22-cell cycle fusion proteins, would not be motivated to combine the use of the VP22-cell cycle fusion proteins with the use of the VP22-HSV-TK proteins disclosed by Dilber et al. and then treat these cells with a prodrug. Furthermore, absent the present specification, one of skill in the art would not be motivated to combine the work of either O'Hare et al. or Dilber et al., on the use of VP22-fusion proteins with teachings of Dalton et al. on the use of verapamil to increase the efficacy of VAD

Moreover, if one of skill in the art administered VP22-cell cycle fusion proteins with VP22-HSV-TK proteins, and further administered verapamil, there would not be a reasonable expectation of success based on the teachings of the prior art. Dalton et al. describes that the

administration of verapamil only enhances the efficacy of VAD for the treatment of tumors that express P-gly. One of skill in the art would not have a reasonable expectation that methods combining verapamil with a VP22-cell cycle fusion proteins would be of use in decreasing the proliferation of any cell (including cells that do not express P-gly).

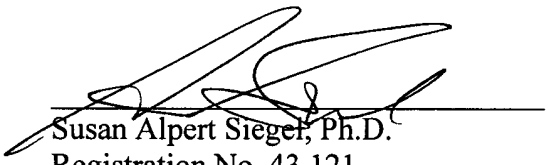
Thus, Applicants respectfully submit O'Hare and/or Dilber et al. and/or the citations of prior art in the specification, and Dalton et al., whether taken alone or in combination, do not render claims 11-13 and 16 obvious. Reconsideration and withdrawal of the rejection is respectfully requested.

Conclusion

Applicants submit that the pending claims are now in condition for allowance. If any minor matters remain to be addressed before a Notice of Allowance is issued, the Examiner is respectfully requested to contact the undersigned.

Respectfully submitted,

KLARQUIST SPARKMAN, LLP

By 
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